

REMARKS/ARGUMENTS

This paper is submitted with a Request for Continued Examination (RCE) under 37 CFR 1.114, which is filed in response to the Final Office Action mailed June 15, 2010. A request for a One Month Extension of Time under 37 CFR 1.136(a) is submitted herewith, along with the fee prescribed by 37 CFR 1.17(a)(1). The response is therefore timely.

As explained below, it is respectfully submitted that the amendments set forth above will place the application in condition for allowance. Reconsideration, in view of these amendments, is therefore respectfully requested.

The undersigned attorney, on behalf of the applicant, thanks Examiner Riviere for the courteous and helpful telephonic interviews conducted on June 23, 2010 and October 14, 2010. The substance of the interviews will be summarized in the remarks below.

Claims 21-30 are pending. Claim 21 was objected to for an informality in the claim language. Claim 25 was rejected under 35 U.S.C. §101 for claiming non-statutory subject matter. Claims 21-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 2002/0103865 - Lilly in view of US 5,841,142 – Duftschmid et al. (“Duftschmid”). In response, claims 21-23 and 25-29 have been amended. As explained below, it is respectfully submitted that claims 21-30, as amended, define patentably over the art of record and should be allowed, and reconsideration is therefore respectfully requested.

The objection to claim 21 was based on its reading “(a) providing system comprising...” The claim has been amended to recite “(a) providing a system comprising...” thereby curing the objectionable informality,

The rejection of claim 25 under Section 101 was discussed during the aforementioned interview of June 23, 2010. Applicant suggested that amending the claim to specify that the recited calculation steps are performed by the computer recited in independent claim 21 (from which claim 25 depends) would explicitly tie the method to a particular machine or apparatus, thereby meeting at least the first prong of the “machine or transformation” test for compliance with Section 101. Furthermore, because claim 25 depends from claim 21, the method steps recited in claim 25 are implicitly tied to the apparatus (i.e., the computer, the terminal, and the observatory) recited in claim 21. To this end, claim 21 has been amended to clarify further that the

radiation dose calculation is performed by the operation of a particular machine (the computer). Therefore it is respectfully submitted that claim 25, as amended, defines statutory subject matter.

The rejection of claims 21-30 under Section 103(a) was also discussed during the aforementioned interview of June 23, 2010, particularly the relevance and teachings of Duftschmid. It was the Applicant's position that Duftschmid lacks any teaching or suggestion of obtaining data from a remote observatory, and then using the observatory data so obtained in the calculation of radiation dose. Instead, as understood by the Applicant, Duftschmid teaches the acquisition of all data regarding radiation from radiation detectors on board the aircraft. It was agreed that the claims would be amended to better clarify this distinction between Applicant's claimed invention and the teachings of Duftschmid.

Accordingly, claim 21 has been amended to recite a separate and distinct step of "(c) obtaining observatory data from a remote observatory and inputting the observatory data to the computer". Thus, claim 21, as amended, recites the entry of flight data into the computer via a terminal; the acquisition of observatory data from a remote observatory; the entry of the observatory data into the computer; and the calculation of the radiation dose by the computer using the flight data and the observatory data. Nothing in the art of record, taken singly or in any combination that might have suggested itself to those of ordinary skill in the art, teaches or suggests the combination of steps defined in claim 21. Therefore, it is respectfully submitted that claim 21, as amended, defines patentably over the art of record.

Claims 22-30 depend from claim 21. Claims 22, 23, and 26-29 have been amended to conform to claim 21 as amended. These claims define the novel aspects of the claimed invention with greater particularity. Accordingly, it is respectfully submitted that claims 22-30 should be allowed along with claim 21.


The telephonic interview of October 14, 2010 was conducted to discuss the Advisory Action mailed September 22, 2010. During the interview, the Examiner explained the need to conduct a further search in view of the above amendments. Also, it was agreed that the language quoted in the Advisory Action from page 7 of the specification does not describe the prior art. Rather, it describes an aspect of the applicant's invention, and thus cannot be cited against the patentability of the claims.

In summary, it is respectfully submitted that claims 21-30, as amended, define patentably over the art of record and should therefore be allowed. Entry of this amendment is therefore respectfully requested, and passage of the application to issue is earnestly solicited.

Should there be any issues remaining to be resolved in the application, the Examiner is respectfully invited to telephone the undersigned attorney to expedite the prosecution of the application to issue.

Respectfully submitted,

Date: October 14, 2010



HOWARD J. KLEIN
Registration No. 28,727

Klein, O'Neill & Singh, LLP (Customer No.: 22145)
18200 Von Karman Avenue, Suite 725
Irvine, California 92612
Tel: (949) 955-1920
Fax: (949) 955 1921

Attorney Docket No. 606-118-PCT-PA